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Message Text

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ACTION AF-10

INFO OCT-01 IO-13 ISO-00 DHA-02 CIAE-00 INR-07 NSAE-00
L-03 PA-01 PRS-01 USIA-06 /044 W
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R 121520Z APR 77
FM AMEMBASSY PRETORIA
TO SECSTATE WASHDC 7315
INFO AMCONSUL JOHANNESBURFYUPP
AMCONSUL DURBAN
AMCONSUL CAPE TOWN
USMISSION GENEVA
USMISSION USUN NEW YORK

C O N F I D E N T I A L PRETORIA 1773

CAPE TOWN FOR EMBASSY

E.O. 11652: GDS
TAGS: PINT, SF, SHUM
SUBJECT: TRIAL OF STEVE BIKO

REF: PRETORIA 1646

BEGIN UNCLASSIFED
1. STEVEN BIKO, HONORARY PRESIDENT OF BLACK PEOPLE'S CONVENTION, IS CHARGED WITH OBSTRUCTING THE COURSE OF JUSTICE BY SUBORNING STATE WITNESSES TO CHANGE STATEMENTS GIVEN TO THE POLICE AND CLAIM THEY WERE ASSAULTED. TRIAL BEGAN MARCH 30 AS REPORTED IN REFTEL.

2. EMBOFF ATTENDED APRIL 5 RESUMPTION OF BIKO TRIAL IN EAST LONDON. BEFORE STATE WITNESS MBUYISELI EBENEZAR NYATI, 15, CONTINUED APRIL 1 TESTIMONY, DEFENSE ADVOCATE COOPER TOLD COURT THAT NYATI HAD SECRETLY TELEPHONED BIKO APRIL 3. BECAUSE COMMUNICATION WITH STATE WITNESSES IS PROHIBITED UNDER BIKO'S BAIL TERMS, ACCUSED IMMEDIATELY TOLD NYATI THEY
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WERE NOT SUPPOSED TO SPEAK WITH EACH OTHER. COOPER TOLD COURT NYATI SAID HE "HAD NO OPTION" BUT TO TESTIFY AGAINST BIKO BECAUSE OTHERWISE THE POLICE WOULD ARREST HIM AND CHARGE NYATI WITH PURJURY. PROSECUTOR MULLER DISMISSED CALL AS NOT RELEVANT TO THE FACTS IN THE CASE. IN RESPONSE TO ADVOCATE COOPER, NYATI TESTIFIED THAT THE POLICE ASKED HIM TO SIGN A COVERED STATEMENT WITHOUT TELLING HIM WHAT IT

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CONTAINED. UNDER FURTHER CROSS-EXAMINATION, NYATI CONTRADICTED HIMSELF ON ISSUE WHETHER HE WAS PRESENT AT MEETING WHEN AGREEMENT WAS MADE TO SET FIRE TO A SCHOOL. NYATI SAID HE HAD DIFFICULTY REMEMBERING EVENTS WELL.

3. NEXT STATE WITNESS, LEPOTA MARAI, 16, TOLD COURT APRIL 7 THAT HE WAS "STRUCK WITH AN OPEN HAND AND HIT WITH A BATON MANY TIMES" BY POLICE AFTER BEING PICKED UP FOR QUESTIONING ABOUT THE SCHOOL FIRE. MARAI SAID POLICE HIT STUDENTS WITHA ABATON CALLED "BLACK POWER" AND HE HEARD OTHERS SCREAMING AND CRYING DURING THE INTERROGATION. MARAI TOLD MAGISTRATE THAT HE GAVE THE POLICE THE STATEMENT THAT THEY WANTED AFTER HE WAS ASSAULTED AGAIN AND PLACED IN SOLITARY CONFINEMENT. MARAI ADMITTED LYING TO GRAHAMSTOWN COURT ABOUT NOT ATTENDING A MEETING WHERE IT WAS DECIDED TO BURN THE FORBES GRANT SCHOOL. ACCORDING TO MARAI, THE STUDENTS DECIDED NOT TO TELL THE TRUTH TO THE GRAHAMSTOWN COURT AND BIKO AGREED THAT A PERJURY CHARGE AGAINST THEM WOULD BE LESS SERIOUS THAN THE SABOTAGE CHARGE LAID AGAINST THE GRAHMSTOWN ACCUSED.

3. APRIL 7 STATE WITNESS WAS FORBES NYATHI, 14, WHO TOLD COURT IN HIS EVIDENCE-IN-CHIEF THAT BIKO TOLD THE STATE WITNESSES TO CHANGE THEIR STATEMENTS. UNDER CROSS-EXAMINATION BY ADVOCATE KUNY, NYATHI SHOCKED CROWDED COURT WHEN HE SAID THE POLICE HAVE HELD HIM IN SOLITARY CONFINEMENT SINCE MARCH 7. IN NYATHI'S WORDS: "I FEEL LONELY AND THINK ABOUT OTHER PEOPLE OUTSIDE." NYATHI ADDED THAT HE HAS NOT SEEN HIS PARENTS SINCE HIS CONFIDENTIAL

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DETENTION AND THAT THE POLICE HAVE THREATENED TO ARREST HIM IF HE DEPARTED FROM HIS ORIGINAL STATEMENT. END UNCLASSIFED.

4. STATE PROSECUTOR J.G. MULLER INFORMED EMBOFF IN PRIVATE THAT HE IS SHOCKED AND DISGUSTED OVER POLICE "GESTAPO" TACTICS IN CASE AND HAS SUBMITTED HIS RESIGNATION TO THE ATTORNEY-GENERAL'S OFFICE EFFECTIVE MAY 31. MULLER MAY NOT BE PROSECUTING CASE AFTER WEEK OF APRIL 11.

5. COMMENT: TRIAL IS EXPECTED TO CONTINUE THROUGH WEEK OF APRIL 11 WITH PROBABLE REMAND UNTIL UNCERTAIN DATE BECAUSE OF PRIOR COURT COMMITMENTS OF DEFENSE COUNSEL. COUNSEL ARE CONCERNED ABOUT BULK OF YOUNG STATE WITNESSES WHO, UNLIKE ACCUSED, ARE NOT OUT ON BAIL. WITNESSES APPEAR TO BE UNDER CONSIDERABLE PRESSURE FROM POLICE TO ADHERE TO ORIGINAL STATEMENTS AND IMPLICATE BIKO.
DEFENSE IS CONCENTRATING ON IMPEACHING STATE WITNESS BY PROBING ISSUE OF POLICE ASSAULTS AND DURESS EMPLOYED TO SIGN UNKNOWN STATEMENTS. DEFENSE HAS YET

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TO PRESENT CASE.
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Message Attributes

Automatic Decaptioning: X
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Disposition Approved on Date:
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Disposition Date: 22 May 2009
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Review Release Event: n/a
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Review Withdrawn Fields: n/a
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Secure: OPEN
Status: NATIVE
Subject: TRIAL OF STEVE BIKO
TAGS: PINT, SHUM, SF, (BIKO, STEVE)
To: STATE
Type: TE
vdkvgwkey: odbc://SAS/SAS.dbo.SAS_Docs/2540bda6-c288-dd11-92da-001cc4696bcc
Review Markings:
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